

REPORT FOR NOTING

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	26 September 2024
SUBJECT:	PLANNING APPEALS
REPORT FROM:	HEAD OF DEVELOPMENT MANAGEMENT
CONTACT OFFICER:	DAVID MARNO
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>Planning Appeals:</p> <ul style="list-style-type: none"> - Lodged - Determined <p>Enforcement Appeals</p> <ul style="list-style-type: none"> - Lodged - Determined
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to the note the report and appendices
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No
Considered by Monitoring Officer:	N/A

Wards Affected:	All listed
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

2.0 CONCLUSION

That the item be noted.

List of Background Papers:-

Contact Details:-

David Marno, Head of Development Management
 Planning Services, Department for Resources and Regulation,
 3 Knowsley Place ,Bury BL9 0EJ

Tel: 0161 253 5291

Email: d.marno@bury.gov.uk

**Planning Appeals Decided
between 14/08/2024 and 16/09/2024**



Application No.: 69923/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Chris Prest

Location: 73A Simister Lane, Prestwich, Manchester, M25 2SU

Proposal: First floor side extension; garage conversion to habitable space; raise roof ridge height, loft conversion with rear dormers; front porch; electric gate on front boundary and elevational changes to existing facade/windows

Appeal Decision: Dismissed

Date: 28/08/2024

Appeal type: Written Representations

Application No.: 70120/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr P Sanghani

Location: Storage unit to the rear of 2C Green Street, Bury, BL8 1TF

Proposal: Change of use from storage unit to 1 no. dwelling (Use Class C3)

Appeal Decision: Dismissed

Date: 15/08/2024

Appeal type: Written Representations

Application No.: 70236/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr Lee Hopley

Location: 21 Philips Drive, Whitefield, Manchester, M45 7PY

Proposal: First floor front extension

Appeal Decision: Dismissed

Date: 28/08/2024

Appeal type: Written Representations

Application No.: 70461/FUL

Decision level: DEL

Recommended Decision: Refuse

Applicant: Mr H Khan

Location: Performance House, Heywood Street, Bury, BL9 7DZ

Proposal: Change of use of part of car showroom (Sui Generis) to retail (Class E(a)) and office (Class E(g)(i)), single storey extension and external alterations

Appeal Decision: Allowed

Date: 12/09/2024

Appeal type: Written Representations

Appeal Decision

Site visit made on 19 August 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2024

Appeal Ref: APP/T4210/D/24/3337479

73A Simister Lane, Prestwich, Bury M25 2SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Chris Prest against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 69923.
 - The development proposed is first floor side extension on top of original garage, single storey front porch extension, raise existing roof height, new dormers to rear, convert loft, elevational changes to existing façade/windows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted the Council has adopted the Places for Everyone¹ Joint Development Plan as part of the Development Plan for Bury. The main parties were given the opportunity to comment on this adopted plan and its relevance in relation to the appeal proposal.
3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
4. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023.

¹ Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022 to 2039, Adopted 21 March 2024.

Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies; and
- the effect on the character and appearance of the area;

Reasons

Whether inappropriate development

6. The appeal site is within land defined as Green Belt. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of the Green Belt being their openness and permanence. The Framework goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154. One such exception, criterion (c), being the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
8. Policy OL1/2 of the Bury Unitary Development Plan 1997 (UDP) also states that the construction of new buildings inside the Green Belt is inappropriate, unless one or more of a number of purposes apply. Of these listed purposes, bullet point three includes limited extension or alteration of existing dwellings, provided that this would not result in disproportionate additions over and above the size of the original dwelling. As such, UDP Policy OL1/2 conforms with the provision of the Framework.
9. I note the Council's Officer Report refers to case law² in respect of assessing the impact on openness. However, as established within the Lee Valley case³, this requirement is not a test within paragraph 154 of the Framework, which only requires openness to be taken into account when it is expressly stated as a determining factor in gauging inappropriateness.
10. As such there is no requirement to assess the impact of the extensions and alterations to a building on the openness of the Green Belt, or the visual impact of the proposal, when determining whether or not it constitutes inappropriate development. The determining factor is therefore whether or not the proposed extensions and alterations result in disproportionate additions over the size of the original dwelling.
11. In this context, the Framework does not define what may constitute a disproportionate addition. An assessment of whether the proposal would be disproportionate to the original building is therefore a matter of planning

² Turner v SCLG & East Dorest Council [2016] EWCA 466

³ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev1) [2016] EWHCA Civ 404

judgement. However, the overall size (footprint and volume) of the original building in comparison to the proposed extended building is clearly an important factor.

12. The Council's Supplementary Planning Document: *Development Control Policy Guidance Note 8 – New Buildings & Associated Development in the Green Belt - January 2007* (SPD8) sets out that residential extensions should be proportionate to the size of the original building and that the Council may allow an extension to be up to a third of the volume of the original dwelling. It further states that each proposal will be considered on its own merits and even an increase up to a third may not be appropriate in certain situations (e.g. if the site is a particularly sensitive area or if there are other amenity issues).
13. The appellant has provided volume calculations to show that the appeal scheme would result in a volume increase of 30% above that of the original dwelling and this figure is not disputed by the Council. As such the appeal scheme would adhere to the guidance within SPD8 regarding volume increases arising from extensions to buildings within the Green Belt.
14. I acknowledge that the figure in the SPD is a guide only and that there may be circumstances where extensions of less than a third are still considered to be disproportionate. Nevertheless, in this case the proposed first-floor extension and raising of the roof, which includes the construction of rear dormers, would be confined to within the existing width and depth of the dwelling and would therefore not result in any increase in the footprint of the original building.
15. Furthermore, and notwithstanding its impact upon the character and appearance of the area which is discussed in further detail below, I consider the raising of the ridge to be proportionate in comparison to the overall scale and height of the existing building.
16. Having regard to the above, in my judgement the proposal would not result in disproportionate additions to the original building in terms of size, and it therefore falls within the exception at paragraph 154 (c) of the Framework. I therefore conclude that the proposed development would not be inappropriate development in the Green Belt and accords with UDP Policy OL1/2, as well as the provisions of the Framework. Furthermore, I have found that the proposal complies with the guidance contained within SPD8.
17. As I have found that the proposal would not be inappropriate development in the Green Belt, there is no place for a subsequent assessment of the effect of the development on the openness of the Green Belt, or the impact on Green Belt purposes.
18. Additionally, given the proposed development would not amount to inappropriate development, there is no need for me to assess other considerations, and whether very special circumstances exist in order to justify the development.

Character and appearance

19. The appeal relates to a two-storey detached dwelling, with an integral side garage, within the semi-rural village of Simister. The property is located within a relatively long ribbon of built development occupying both sides of the road.
20. I observed on site that there are a variety of house styles, designs and ridge heights within this ribbon of development, reflecting the various different ages

of the properties. However, the appeal property is located centrally within a row of three detached dwellings which appear to be almost identical in size, scale, height and design. I did note that the appeal property has a slightly different roof design above its integral garage and front porch / canopy in comparison to the properties either side, however collectively this row of three similar properties creates a positive feature on an otherwise varied street scene.

21. Furthermore, the single storey garage to the side of each property in this row creates a gap between each dwelling at first floor level. These gaps afford visual relief from the built development along this street, as well as providing a view of the wooded area to the rear (north) of the appeal site, thereby adding to the pleasant, green and leafy character of this area. As such, the existing gap provided at first-floor level on each of the properties in this row currently makes a positive contribution to the appearance of the street scene.
22. The proposed first-floor side extension above the side garage, and the raising of the ridge height, would increase the height and bulk of the dwelling, resulting in it being more visually prominent and dominant on the street than the existing building and the similar dwellings either side. Whilst acknowledging the proposal has been designed to retain and replicate existing features of the dwelling, including the front gable feature on the first-floor extension, as a result of its scale and size the proposed extensions and alterations would create an overly dominant and oppressive building in this locality.
23. The proposal would also disrupt the existing continuity provided by this row of three properties, as well as significantly reducing the gap at first floor level between the appeal property and the neighbouring dwelling at No. 75 Simister Lane. The narrowing of this gap would result in harm to the street scene by reducing the aforementioned pleasant views of the trees within the wooded area to the rear.
24. Additionally, the raising of the ridge height would not only look out of place in comparison to the properties either side, but also alter the pitch and slope of the roof plane. Thus, not only would the raising of the ridge height, along with the first-floor extension, result in the appeal dwelling being the dominant property in this row of three dwellings when viewed directly from the front, but also when approaching from either direction on Simister Lane the proposed roof plane / slope would sit forward of, and above, the properties either side. This only adds further visual harm to the character and appearance of this row of three properties and the wider street scene in general.
25. Accordingly, I conclude that the appeal scheme would significantly harm the character and appearance of the surrounding area. The proposal is therefore contrary to UDP Policy H2/3 where it seeks to ensure, among other things, that development is sympathetic in nature with the surrounding area by reason of shape, design, and external appearance.
26. The proposal also fails to comply with the Council's Supplementary Planning Document 6: Alterations and Extensions to Residential Properties (adopted 2004 and updated 2010) where it seeks to achieve a high standard of design and to ensure that proposals do not have a detrimental impact on the character and appearance of neighbouring properties and general street scene.

Other Matters

27. The appellant has made reference to the number of additions that have been approved and constructed at other nearby properties in the area. Whilst I acknowledged earlier that the wider street scene includes a variety of house types, heights and designs, I have limited information before me as to the planning history of all these other properties to draw any direct comparisons with the appeal scheme.
28. My attention has however been specifically drawn to extensions and alterations at No. 85 Simister Lane (No. 85). Again, I do not have all the details before me in respect of the full planning history of this property. Nevertheless, having reviewed the approved plans at No. 85 that have been provided as part of this appeal, I note that this proposal did not appear to include any raising of the ridge height, as proposed by the appeal scheme. Furthermore, I observed on site that the properties immediately surrounding No. 85 differ in size and design. As such, I do not consider the approved extensions at No.85 are directly comparable to the appeal scheme.
29. Notwithstanding the above, the existence of other extensions in the area does not justify the harm I have identified, and I have determined the appeal on its own merits against the most up-to-date planning policies.
30. I note the appellant comments that the proposal primarily intends to allow more useable area on the upper floors to accommodate their growing family. Limited information is before me as to those circumstances and I have limited evidence that this scheme is the only practical option for extending this property. I do not therefore find that the personal circumstances of the appellant to extend the property outweigh the harm I have found the appeal proposal would have on the character and appearance of the surrounding area.

Conclusion

31. The proposed development would not constitute inappropriate development within the Green Belt. However, the appeal scheme would have an unacceptable harmful impact upon the character and appearance of the surrounding area.
32. The proposal therefore conflicts with the development plan when taken as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude that the appeal should be dismissed.

R Major

INSPECTOR



Appeal Decision

Site visit made on 2 July 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2024

Appeal Ref: APP/T4210/W/24/3338881

Detached storage unit, Green St, Bury BL8 1TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr P Sanghani against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 70120.
 - The development proposed is change of use from storage unit to dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 21 March 2024, after the appeal was submitted, the Council adopted the Places for Everyone Joint Development Plan Document (PfE) as part of its Development Plan. The Council have referenced the updated policies of the PfE in its statement, which the appellant has had an opportunity to comment on.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area,
 - whether acceptable living conditions would be provided for future occupiers of the development with regard to amenity space and outlook,
 - the effect of the proposal on highway safety,
 - whether acceptable living conditions would be provided for neighbouring occupiers with regard to access.

Reasons

Character and appearance

4. The proposal relates to an existing storage unit and is a single storey, flat roofed building, accessed off Green Street via an access track. It lies to the rear of an existing dwelling and abuts the rear boundaries of dwellings on Tottington Road and Lomond Drive. The area is predominantly residential although there is some commercial development along Green Street. The surrounding buildings are two-storey terraced, semi-detached or detached dwellings of a similar height and massing each with a frontage to the surrounding streets. The existing building is unassuming and, due to recent development in its foreground, it has limited presence within its surroundings.

5. The appeal scheme is for a change of use of the building to a one-bedroom dwelling with amenity space to the front along with close boarded timber fencing to enclose the space and bin store.
6. The use of the single storey storage unit as a dwelling and the introduction of the space and associated enclosures would fundamentally change its character. This would fail to reflect the predominant scale and mass of surrounding dwellings or their plot sizes. In addition, it would not have a street frontage due to the buildings position to the rear of the plot so it would not reflect the character of the area and would create an incongruous and inharmonious form of development.
7. I conclude that the proposal would harm the character and appearance of the area. It would conflict with Policies EN1/2, H2/1, H2/2, H2/4 and H2/6 of the Bury Unitary Development Plan (UDP) and Policy JP-H4 of the PfE which together amongst other matters seek to ensure that development makes a positive contribution to the quality of the surrounding area and is at a density appropriate to the location. It would also conflict with guidance in the National Planning Policy Framework (the Framework) which has similar aims.

Living conditions for future occupiers

8. The close boarded fence would be approximately 2 metres high and would be in close proximity to the front of the building, in particular to the bedroom window. According to the submitted plans this would be the only window serving the bedroom as the windows currently on the side elevation are not shown on the proposed elevation. This would limit the outlook from this room creating an enclosed and oppressive environment limiting the occupier's enjoyment of the room.
9. Whilst all the land proposed for outdoor amenity space appears to be within the appellant's ownership, as shown by the blue line, a sizeable portion of the space adjacent to the bathroom of the dwelling and the proposed fence line would fall outside of the site edged red on the site plan. This is unusual and the lines should normally be the same. However, this is not a matter that can be addressed through the appeal process. The proposed space would, nonetheless, be small and enclosed by the fencing, so future occupiers would experience it as an oppressive space with limited outlook. While some surrounding houses have outlook onto gardens of a similar size to the proposal, these have dual aspects toward the streets, including from first floor rooms, so are not comparable with the proposal.
10. I conclude that the proposal would not provide acceptable living conditions for future occupiers of the development with regard to amenity space and outlook. It would conflict with Policies H1/2, H2/1, H2/2 of the UDP and Policy JP-P1 of the PfE which together amongst other matters seek to ensure that development has a positive impact on residential amenity and is functional and convenient. It would also conflict with guidance in Supplementary Planning Document 6 Alterations and Extensions to Residential Properties and the Framework which have similar aims.

Highway safety

11. The proposal would be accessed via an existing track from Green Street which would have been the access to the storage unit when it was in use, although

this does not appear to have been used for some time. The level of use of the track would be similar for a single dwelling as for the storage unit. Although one parking space would be provided there would be insufficient space for turning facilities to enable the vehicle to exit the site in a forward direction due to the addition of the proposed fencing to enclose the outdoor amenity space. In addition, there is no evidence to show that appropriate visibility onto Green Street can be provided. Therefore, I cannot be certain that traffic would be able to safely join the highway in a forward direction, particularly as there may be pedestrians accessing the nearby dwellings using the footpaths.

12. I conclude that the proposal would harm highway safety. It would conflict with Policies H2/4, EN1/2, H2/2 and HT6/2 of the UDP which together amongst other matters seek to ensure that development seeks to reduce pedestrian and vehicular conflict and has acceptable standards of access for vehicles.

Living conditions of neighbouring occupiers

13. There is a high fence to the rear of the dwellings on Tottington Road to separate the access track from the dwellings to enable safe passage to them. An additional fence has been constructed between the access road and the side of 2c Green Street. The full extent of the existing fences is not shown on the plans. As the dwellings on Tottington Road front directly onto the footpath, rear access is necessary for refuse collection. However, details of a scheme to maintain the rear access to the residential properties on Tottington Road, including for any boundary enclosures, could be subject to a condition as the land necessary to achieve this is within the site edged red.
14. I conclude that the proposal would provide acceptable living conditions for neighbouring occupiers with regard to access. Hence, in this respect, it would comply with Policies H2/4, EN1/2, H2/2 and HT6/2 of the UDP which together amongst other matters seek to ensure that development does not impact on neighbouring properties and has suitable access arrangements.

Other Matters

15. Policy JP-H3 of the PfE requires that new dwellings comply with the Nationally Described Space Standards¹. Were the proposal otherwise acceptable I would need to have considered this matter further and sought the views of the parties regarding this matter. However, as I have found the proposal would be unacceptable for other reasons, there would be no beneficial outcome from addressing this matter further in this case.

Planning Balance

16. With the adoption of the PfE, the Council's position in relation to its housing land supply has changed and it is able to demonstrate 5-years supply of deliverable housing land. Nevertheless, the Council has a poor record of housing delivery, which is reflected in the Housing Delivery Test result. This requires the application of Framework paragraph 11(d).
17. The proposed development would create an additional dwelling adding to the Council's housing stock supporting the Government's objective of boosting the supply of homes. The site is also situated in an accessible location in an urban area outside of the Green Belt. However, given the magnitude of the proposal,

¹ [Technical housing standards – nationally described space standard - GOV.UK \(www.gov.uk\)](https://www.gov.uk/technical-housing-standards)

cumulatively these benefits would only be of moderate weight. The proposal would also not be harmful to the living conditions of neighbouring occupiers, which would neither weigh in favour nor against the proposal. In terms of harm, the appeal proposal would result in significant conflict with the development plan in relation to harm to highway safety, the character and appearance of the area, and through inadequate living conditions for future occupiers. Consequently, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

18. Whilst I have not found harm to the living conditions of neighbouring occupiers, I have identified harm to the character and appearance of the area, living conditions for future occupiers and to highway safety. Therefore, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

H Senior

INSPECTOR

Appeal Decision

Site visit made on 19 August 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th August 2024

Appeal Ref: APP/T4210/D/24/3339608

21 Philips Drive, Whitefield, Bury M45 7PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Lee Hopley against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 70236.
 - The development proposed is erection of 1st floor extension above existing porch allowing increase of existing bedroom.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted the Council has adopted the Places for Everyone¹ Joint Development Plan as part of the Development Plan for Bury. The main parties were given the opportunity to comment on this adopted plan and its relevance in relation to the appeal proposal.
3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
4. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023.
5. I observed on my site visit that the first-floor front extension has already been constructed. However, I note that the first-floor extension as built has been finished with timber cladding whereas the proposed plans state that the extension would have a rendered finish. Nevertheless, the submitted documents state that the development has been completed and I shall thus consider it on a retrospective basis.

¹ Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan 2022 to 2039, Adopted 21 March 2024.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

7. The appeal relates to a two-storey end terrace dwelling located within a row of four properties. Each terrace property in this row was built with a flat-roofed forward projecting porch at ground floor level. These original porches, along with the similar design of each property, creates a positive and simple sense of symmetry to the front elevation of this terrace row.
8. The properties within this row are all accessed via a set of external steps and a pedestrian access path leading from the vehicular highway of Philips Drive, with the ground floor levels of the properties all situated on land that is raised above the level of the vehicular highway of Philips Drive. Additionally, the front elevation of this terrace row is set forward in comparison to the front elevation of the terrace row directly to the southeast. This raised position, and forward projection, result in the terrace row, within which the appeal property is located, being visually prominent at the end of this street when viewed from the southeast.
9. The surrounding area is characterised by a variety of different house types, sizes and designs, including two-storey dwellings, bungalows, three-storey dwellings and a three-storey block of flats on Linksvie Court which face towards the appeal site. However, each of these different house types is clustered within a different part of the street. This results in different sections of Philips Drive having their own design style and identity, with the properties within each different section being generally similar in design to each other. This layout is a defining characteristic of the street scene on Philips Drive.
10. The introduction of the first-floor extension above the existing front porch significantly unbalances the symmetry across the front elevation of this terrace row, to the visual detriment of the host property, the other properties in this row and the surrounding area in general. The visual impact of the proposal is exacerbated by its flat-roof design, which is not a design feature at first-floor level within the immediate street scene on Philips Drive. The first-floor extension therefore creates an incongruous and discordant feature within this row of otherwise similar properties.
11. For the avoidance of doubt, whether the existing timber clad finish is retained, or whether the extension is finished in render as shown on the proposed plans, would not alter my view on the visual harm arising from the first-floor front extension.
12. In coming to the above views, I acknowledge that the appeal property is located at the end of the row and the street, and that the vehicular highway of Philips Drive terminates before reaching this row of terrace properties. However, due to a combination of its raised and forward position on the street, the front elevation of the appeal property, and in particular the first-floor front extension, is clearly visible from public viewpoints along Philips Drive.
13. Furthermore, the first-floor extension is also visible from the highway serving Linksvie Court, above the existing row of garages, as well as from the first and second floor windows in the front elevation of the flats on Linksvie Court. As such, whilst located at the end of the street, the appeal property and the first-floor

front extension are visible and prominent from multiple locations and surrounding properties.

14. The appellant has commented that the extension is small in size, in keeping with the roof line and blends with the background of the gable elevation of the neighbouring property at No. 1b Park Terrace (No. 1b). Whilst I acknowledge the extension is modest in size and does not breach the existing eaves line, I observed on site that the timber clad extension visually stands out against the white rendered gable elevation of the neighbouring property at No. 1b when viewed from Philips Drive. Furthermore, if the extension was to be finished in render, as detailed on the proposed plans, this would be visually at odds with the host dwelling and other properties in this terrace row.
15. In view of all the above, the first-floor front extension causes unacceptable harm to the character and appearance of the surrounding area. As such the proposal conflicts with Policy H2/3 of the Bury Unitary Development Plan (1997) which seeks to ensure that development is sympathetic in nature with the original building and surrounding area by reason of shape, design, and external appearance.
16. The proposal also fails to comply with the Council's Supplementary Planning Document 6: Alterations and Extensions to Residential Properties (adopted 2004 and updated 2010) where it seeks to achieve a high standard of design and to ensure that proposals do not have a detrimental impact on the character and appearance of neighbouring properties and general street scene.

Other Matters

17. The appellant has referred to advice they received from the Council prior to works commencing on site. However, I have not been provided with the specific details of this advice and in any case this matter has not been determinative in my consideration of this appeal which has been determined in accordance with the most up-to-date planning policies.
18. The appellant has drawn my attention to extensions that have been allowed to the side of the property at No. 12 Philips Drive (No. 12). Whilst I have not been provided with all the details in relation to the extensions to the side of No. 12, I observed that they are not directly comparable to the appeal scheme which relates to a first-floor front extension.
19. The appellant has also provided photos of other front extensions that they assert have been approved by the Council. However, I have been provided with no information in respect of the planning history of these examples, or details of their proximity in relation to the appeal site. I note that one of the photos provided does include an address². However, this property is not located and viewed within the same street scene as the appeal property. Furthermore, the existence of other extensions in the borough does not justify the harm I have identified, and I have determined the appeal on its own merits against the most up-to-date planning policies.
20. I note that the appellant states that the proposal is required to provide additional space within the smallest bedroom, and that they are seeking to provide more floorspace to facilitate their growing family. However, limited information is before

² 328a Stand Lane, Radcliffe

me as to those circumstances and I have limited evidence that this scheme is the only practical option for extending this property. I do not therefore find that the personal circumstances of the appellant to extend the property outweigh the harm I have found to the character and appearance of the area.

Conclusion

21. The proposal conflicts with the development plan when taken as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude that the appeal should be dismissed.

R. Major

INSPECTOR



Appeal Decision

Site visit made on 6 August 2024

by **J Symmons BSc (Hons) CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 12 September 2024

Appeal Ref: APP/T4210/W/24/3341939

Performance House, Heywood Street, Bury BL9 7DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr H Khan against the decision of Bury Metropolitan Borough Council.
 - The application Ref is 70461.
 - The development proposed is change of use of part of a car showroom to general retailing plus an independent office (including an extension to the existing building).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of part of a car showroom to general retailing plus an independent office (including an extension to the existing building) at Performance House, Heywood Street, Bury BL9 7DZ in accordance with the terms of the application Ref: 70461 and subject to the conditions in the attached schedule.

Preliminary Matters

2. As there is no indication that changes to the development description provided on the application form have been agreed between the main parties, I have used the application form details in this decision.
3. On 30 July 2024, the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and issued a written ministerial statement titled 'Building the homes we need'. Given that those parts of the draft Framework most relevant to this decision are not proposed to be amended I consider there is no requirement to seek further submissions on these. I am satisfied that no party's interests would be prejudiced by my taking this approach.
4. Reference is made to a car wash facility on the appeal site which consists of a number of hand car wash bays covered by a canopy structure. The Council refer to the car wash facility including the canopy structure as unauthorised and the appellant provides no evidence to dispute this. For clarity and for the avoidance of doubt, any reference to the car wash facility in this decision includes the canopy structure. During my visit there were vehicles obscuring the hand wash bays of the car wash facility, but I did observe the canopy structure.

Main Issues

5. The main issues in the determination of the appeal are:

- highway safety, particularly with regard to car parking and servicing;
- whether the proposed development would meet the development plan's carbon emissions standard; and
- whether the proposed development would meet the development plan's high-quality digital infrastructure standard.

Reasons

Highway safety

6. The appeal site is a commercial building most recently used for car sales with a yard area. The Council noted that the yard area was partly used as a car wash facility.
7. The proposal would convert and extend part of the commercial building to form two retail units and one office unit. In support of this, twelve car parking spaces would be provided in the yard area.
8. Through consultation with the Highway Authority, the Council raised concerns that the existing car wash facility would result in standing and queuing vehicles which would adversely affect the use of the proposed development's access, parking spaces and servicing requirement. It was considered that this would cause potential overspill parking and delivery activities that would adversely affect the nearby signalised junction on Heywood Street and the adjacent side streets.
9. However, the appellant and the Council agree that the car wash facility is unauthorised. While the Council indicates that it requested a planning application for the car wash facility to be submitted, the main parties confirm that this was not completed. The appellant has confirmed that the facility is no longer operating and has advised that, even if it was, the Council could take enforcement action to stop its use. The appellant has further confirmed that the proposed development does not include the car wash facility and it was only shown on the proposed plans at the request of the Council.
10. The Council provides little evidence to dispute the appellant's confirmation that the car wash facility is no longer operational or, if it was operational, that enforcement action could not be taken. On the above basis, I consider it reasonable and appropriate for the car wash facility not to be considered in assessing the proposal.
11. The Council confirms that the proposal would provide sufficient car parking spaces and no evidence to the contrary is before me. Without the car wash facility, the concerns raised by the Council regarding it causing standing and queuing vehicles are no longer applicable. Furthermore, there is little evidence to dispute the appellant's indication that, without the car wash facility, there would be no difficulty in accessing the refuse bins. As the area for vehicles to manoeuvre would be significantly larger without the car wash facility, I see little reason to question the adequacy of on-site servicing of the development.
12. Overall, the proposal would not affect highway safety with particular regard to car parking and servicing. The proposal would comply with Policies EN1/2, HT2/4, HT6/1 and HT6/2 of the Bury Unitary Development Plan Adopted Plan 1997 and the guidance set out in the Development Control Policy Guidance

Note 11 – Parking Standards in Bury for adoption 2007. These policies and guidance seek new development, amongst other matters, does not have an unacceptable adverse effect on the character and townscape, provide adequate parking and service provision and prevent conflict between pedestrians, cyclists and vehicles.

Carbon Emissions

13. Policy JP-S2 of the Places for Everyone Joint Development Plan 2022 to 2039 (2024) (Pfe) is aimed at delivering a carbon neutral Greater Manchester no later than 2038. The expectation from the adoption of the Pfe is that net zero carbon should be achieved for regulated carbon emissions; from 2028 for all emissions in construction; and from 2025, development should also calculate and minimise carbon emissions from unregulated emissions. The policy indicates that an energy statement should set out how this would be achieved, in accordance with an energy hierarchy. It also sets out, amongst other matters, that electrical vehicle charging should be provided and at least BREEAM excellent standard (or equivalent) for the 'Ene 01 – reduction of energy use and carbon emissions' category should be achieved.
14. There is no energy statement before me, nor any substantive evidence to detail how the proposal would comply with the policy. The appellant indicates that a condition could secure this matter. As the policy allows an exception if it can be demonstrated that net zero carbon is not practicable or financially viable, I see no reason why this matter could not be controlled by a condition were the appeal to be allowed.
15. I therefore conclude that with a suitably worded condition imposed, the proposed development would not conflict with Policy JP-S2 of the Pfe.

Digital Connectivity

16. Policy JP-C2 of the Pfe seeks to ensure that new development is equipped with electronic communication services and requires all new development to have full fibre connections to premises. There is no substantive evidence before me to demonstrate compliance with this policy.
17. The appellant indicates that this matter could be secured through a condition. As the policy allows an exception if it can be demonstrated that such connectivity is not practicable or financially viable, I see no reason why this matter could not be controlled by a condition were the appeal to be allowed.
18. Accordingly, I conclude that with a suitably worded condition imposed the proposed development would not conflict with Policy JP-C2 of the Pfe.

Conditions

19. The Council has suggested several conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of these for consistency and clarity. I have also added a number of conditions which I consider necessary. Both the appellant and the Council were consulted on the proposed conditions and other than acknowledgement of them no comments were provided.
20. For the avoidance of doubt and in the interests of certainty, I have included the standard time limit condition. For the same purpose, a condition is imposed

requiring the development to be carried out in accordance with the approved plans. However, with respect to drawing titled 'Proposed Floor Plan & Elevations' dated 08/11/2023, I have excluded the car wash facility as this does not form part of the development for which permission is hereby granted.

21. To ensure the development maintains the character of the existing building and the surrounding area I have imposed a condition for the external materials to be submitted and approved by the Council. Furthermore, in order to provide certainty a condition is imposed to secure the delivery of the proposed parking spaces and their retention.
22. Conditions to ensure the development meets Policies JP-S2 and JP-C2 of the PFE with respect to carbon emission reduction and digital connectivity have also been included.
23. I have included conditions for unforeseen contamination and electric vehicle charging points as recommended by the Council's Environmental Protection Team to protect human health, controlled waters and the wider environment and encourage the uptake of ultra-low emission vehicles.

Conclusion

24. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

J Symmons

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawings:
'Location Plan' dated 26/10/2023; and
'Proposed Floor Plan and Elevations' dated 08/11/2023 but excluding the car wash facility shown which does not form part of the development approved by this permission.
- 3) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 4) Prior to the commencement of the development hereby permitted, details shall be submitted to and approved in writing by the local planning authority to demonstrate that full fibre connections to the premises will be provided,

unless it is substantiated that this would not be technically feasible and/or viable. The details must also include future-proofing of the premises for full fibre gigabit-capable network connections. The development shall be carried out in accordance with the approved details and maintained thereafter.

- 5) Prior to commencement of the development hereby permitted, an energy statement shall be submitted to and approved in writing by the local planning authority. That statement shall provide details of a scheme to ensure that regulated operational carbon emissions from the development will, unless the energy statement substantiates that it would not be practicable or financially viable, be net zero. Where net zero would not be practicable or financially viable, the statement shall provide details of a scheme to ensure that carbon emissions are reduced to the maximum possible extent. The energy statement shall be in accordance with the energy hierarchy which in order of importance shall seek to i) minimise energy demand, ii) maximise energy efficiency, iii) use renewable energy, iv) use low carbon energy and v) utilise other energy sources.

The development shall be carried out in accordance with the details set out in the approved energy statement and all measures identified within the approved scheme shall be implemented prior to the first occupation of the development and maintained thereafter.

- 6) Unless substantiation is submitted to and approved in writing by the local planning authority that it would not be practicable or financially viable, the development shall achieve at least BREEAM Level excellent (or equivalent) for the 'Ene 01 – reduction of energy use and carbon emissions' category in accordance with the requirements of the relevant BREEAM scheme. No building shall be occupied until a Final BREEAM Certificate for this category has been issued and provided to the local planning authority.
- 7) No development above ground level shall take place until details/samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
- 8) Electric vehicle (EV) charging points for 20% of the proposed parking spaces shall be provided prior to occupation of the development hereby permitted, unless substantiation is submitted to and approved in writing by the local planning authority that it would not be practicable or financially viable. The charge points shall be 7kW (32A) single phase as a minimum. Prior to commencement of the development hereby permitted, the proposed location of the charge points shall be submitted to and approved in writing by the local planning authority. The charging points shall be maintained thereafter.
- 9) The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with drawing titled 'Proposed Floor Plan and Elevations' dated 08/11/2023. Thereafter those spaces shall be retained for the parking of vehicles only.